

DELINQUENCY

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DETENTION/RELEASE

The first time each victim in a case appears in court on that case, the judge shall read the following statement:

“If you are the victim of a delinquent act with a case pending before this court, you are advised that you have rights to justice and due process under Arizona law that, among others, include the right be treated with fairness, respect and dignity, to a speedy disposition and a prompt and final conclusion of the case, to be present at court proceedings, to choose whether or not to be interviewed by the juvenile’s attorney, to be heard before the court makes a decision on release, negotiation of a plea, scheduling and disposition and to seek restitution from a person who is adjudicated as causing your loss. If you have not already been provided with a written statement of all victims’ rights, please contact the victim services division of the prosecutor’s office.” [A.R.S. § 8-421](#); [Ariz. R.P. Juv. Ct. 214](#).

The victim has a right to be heard at the detention hearing. Source: Ariz. R.P. Juv. Ct. 218(d)(4).

Detention can only be based upon a finding of (a) probable cause to believe the offense alleged was committed and the juvenile committed the offense and (b) probable cause to believe one of grounds met as set forth in [Ariz. R.P. Juv. Ct. 218\(d\)\(2\)\(A-E\)](#).

A. DETERMINE PROBABLE CAUSE

1. Verified petition (including petition alleging violation of probation), certified citation (if shows facts and circumstances), sworn police

report with affidavit (if shows facts and circumstances and would be admitted as exhibit) or sworn testimony.

2. Probable cause must be based on sworn facts and circumstances. *In re Otel H.*, 208 Ariz. 312, 93 P.2d 512 (App 2004).
3. Determine and make findings concerning probable cause. NOTE: Acceptance of disposition or finding of delinquency or incorrigibility following adjudication constitutes a finding of probable cause.

B. DETENTION/TERMS AND CONDITIONS OF RELEASE

1. Receive recommendations from probation officer.
2. Hear from county attorney, [defense counsel], [victim], juvenile and juvenile's parents/guardian/custodian.
3. Make decision to release or detain the juvenile.

IF A DECISION IS MADE TO DETAIN THE JUVENILE:

1. Make findings under [Ariz. R.P. Juv. Ct. 218\(d\)](#):
 - a. There is probable cause to believe the juvenile committed the alleged offense(s) and;
 - b. One or more of the following:
 - Juvenile will otherwise not be present at any hearing,
 - Likely to commit an offense injurious to self or others,
 - Must be held for another jurisdiction,
 - Interests of juvenile or public require custodial protection;**OR**
 - Must be held pending filing of complaint pursuant to [A.R.S. §13-501](#).
2. Determine and make written findings pursuant to [42 U.S.C. §672](#) that it is in the best interest of the juvenile and the community for the juvenile to be placed outside the juvenile's home and that continuation in the home would be contrary to the welfare of the juvenile, including the factual circumstances that would support this finding. NOTE: ***This finding must be made in the court's first order that detains the juvenile/orders removal of a juvenile from the home and the order must be signed in ink by a judicial officer.*** See [Ariz. R.P. Juv. Ct. 217](#).
3. Order any appropriate detention services.

IF A DECISION IS MADE TO RELEASE THE JUVENILE:

1. Determine to whom the juvenile should be released.
2. Order terms and conditions of release.
3. If charged with an offense listed in [A.R.S. §13-610\(O\)\(3\)](#), order that the juvenile report within five days to the arresting law enforcement agency or its designee and submit a sample of buccal cells or other bodily substances for DNA testing and provide proof of compliance at the next hearing and advise the juvenile that willful failure to comply with this order may result in revocation of release, including arrest and confinement for violation of a condition of release. [A.R.S. §8-238](#). NOTE: [Mario W. v. Superior Court, 230 Ariz. 122, 281 P.3d 476 \(2012\)](#) held that pre-adjudication buccal swab sample requirement was constitutional but placed limits on extracting DNA profile from the buccal swab before adjudication or absent a failure to appear.

IF THE JUVENILE IS RELEASED FROM DETENTION TO DEPARTMENT OF CHILD SAFETY OR ANY OUT OF HOME PLACEMENT FOR THE FIRST TIME:

1. Receive any additional evidence.
2. Make written findings pursuant to [42 U.S.C. §672](#) that it is in the best interest of the juvenile and the community for the juvenile to be placed outside the juvenile's home. Continuation in the home would be contrary to the welfare of the juvenile, including the factual circumstances that would support this finding. NOTE: ***This finding must be made in the court's first order that orders removal of a juvenile from the home and the order must be signed in ink by a judicial officer.***

(See also [Ariz. R.P. Juv. Ct. 217](#))

ADMONISH JUVENILE RELEASED FROM CUSTODY THAT FAILURE TO APPEAR AT NEXT HEARING MAY RESULT IN THE ISSUANCE OF A WARRANT FOR THE JUVENILE'S ARREST AND FAILURE TO ABIDE BY TERMS AND CONDITIONS OF RELEASE COULD RESULT IN DETENTION IN ADVANCE OF NEXT HEARING.

ENSURE NOTICE OF THE NEXT HEARING:

Make a record advising the parties of the next hearing date, time and location.

ADVISORY HEARING

Source: Ariz. R.P. Juv. Ct. [219](#)

CALL THE CASE:

1. Identify the case number, case name and the nature of the hearing.
2. Identify those present.
3. Read Victim Notice if victim is appearing for the first time in court on the case.

[The court may at this time determine that the juvenile is indigent and appoint counsel. The recitations of a formal advisory pursuant to [Ariz. R.P. Juv. Ct. 219\(c\)\(A-E\)](#) may be waived, if minor's counsel has already provided the information to the minor.]

ADVISE JUVENILE OF:

1. The charges
2. Juvenile's constitutional rights:
 - To counsel free or at reduced charge [if applicable] and to retain private counsel at the juvenile's own cost. If juvenile requests counsel, and is entitled to court-appointed counsel, counsel will be appointed. If counsel is not available to proceed at that time, set continued date for advisory hearing. [Pima County: trial review hearing 15/30 days]
 - To an adjudication hearing (trial) on the charges,
 - Burden of proof,
 - To confront and cross-examine witnesses,
 - To call witnesses on juvenile's behalf, including use of subpoena/court's power to compel attendance and
 - To remain silent without consequence.
3. The possible consequences of a delinquency, incorrigibility or violation of probation finding.
4. If the juvenile is at least seventeen years old and the state filed a notice of intent to retain jurisdiction, the consequences can extend to the juvenile's nineteenth birthday ([A.R.S. § 8-202\(H\)](#)).
5. Determine juvenile's understanding and competency.
6. If a transfer hearing is requested, set hearing and order a probation investigation and determine if a psychological evaluation is necessary and, if so, order that evaluation and proceed to Detention/Release Section.
7. If no transfer hearing is requested, determine if the juvenile wishes to admit or deny the allegations.

8. Determine whether the victim of the offense has requested to be present, or requested to be heard regarding any disposition (plea) agreement that may be offered by the state. Ariz. R.P. Juv. Ct. Rule 219(c)(2).

IF JUVENILE DENIES AND REQUESTS A FURTHER HEARING (TRIAL, PRE-TRIAL, OR NON-WITNESS SETTING), THEN SCHEDULE FURTHER HEARING AND PROCEED TO THE DETENTION/RELEASE SECTION, IF JUVENILE IS DETAINED.

If juvenile is released, advise juvenile that if he/she is not present on date of future hearing (other than disposition), hearing can occur without his/her presence, and court may issue warrant for his/her arrest. Ariz. R.P. Juv. Ct. Rule 208(d).

IF JUVENILE WISHES TO ACCEPT A DISPOSITION OR WISHES TO ADMIT TO THE CHARGE(S), THEN PROCEED TO THE DISPOSITION AGREEMENT SECTION.

DISPOSITION (PLEA) AGREEMENT

CALL THE CASE:

1. Identify the case number, case name, and nature of the hearing.
2. Identify those present.

DISPOSITION AGREEMENT:

1. Review the terms of the disposition agreement with the parties to ensure it is clear. Alternatively, have counsel state the terms of the agreement. Ensure a knowing and voluntary waiver of counsel, if the juvenile waives counsel.
2. Determine whether victim rights have been complied with. See [Ariz. R.P. Juv. Ct. 220\(b\)\(3\)](#).
3. Read Victim Notice if victim is appearing for the first time in court on this case.
4. Hear victim's views or state's efforts to provide notice to victim.

ADDRESS THE MINOR:

1. Determine minor's age, level of education, and understanding of the English language.
2. Determine whether the minor has consumed any medicine, alcohol, or drugs in the past 24 hours.
3. If yes, identify such medications and determine what (if any) effect they are having on the minor's ability to understand the proceedings. Obtain input from counsel and/or parent(s) and make appropriate findings.
4. Determine whether the minor has spoken with counsel about the disposition agreement.
5. Review all of the terms of the disposition agreement and determine whether the minor understands them. Ensure that all terms of the agreement are either in writing or stated on the record and that there are no additional terms, conditions or promises unstated.
6. Advise the minor regarding the possible consequences:
 - Probation (Summary, if available, Standard or Intensive Probation);

- Fines, restitution, community service, drug testing, loss of driving privileges;
- Detention for up to one year;
- Commitment to the Arizona Department of Juvenile Corrections up to age 18 (for felony counts); and
- Other consequences, including but not limited to possible driving privilege suspension ([A.R.S. § 28-3320](#)) and sex offender registration ([A.R.S. § 13-3821\(D\)](#)).

IF MINOR IS PLEADING TO FIRST-TIME FELONY [[A.R.S. § 8-341\(C\)](#)]:

Do you understand that, if your disposition is accepted, you will be a first-time juvenile felony offender?

PROVIDE FOLLOWING WARNING TO JUVENILE VERBALLY AND IN WRITING:

This is your first felony offense. If you commit another felony offense and you are fourteen years of age or older, any of the following could happen to you:

1. You could be tried as an adult in adult criminal court.
2. You could be committed to the department of juvenile corrections.
3. You could be placed on juvenile intensive probation, which could include incarceration in a juvenile detention center.

IF THE MINOR IS PLEADING TO A SECOND OR SUBSEQUENT FELONY [[A.R.S. § 8-341\(D\)](#) & [8-341\(E\)](#)]:

Do you understand that, if your disposition is accepted, you will be a repeat juvenile felony offender?

PROVIDE FOLLOWING WARNING TO JUVENILE VERBALLY AND IN WRITING:

You are now a repeat felony offender. This means:

1. You will be tried as an adult in adult criminal court if you commit another felony offense and you are fifteen years of age or older.
2. You could be tried as an adult in adult criminal court if you commit another felony offense when you are at least fourteen years of age.
3. You could be incarcerated in the state department of corrections if you are convicted as an adult in adult criminal court.

7. Advise minor of his/her rights:

Do you understand that you don't have to admit any of these charges/allegations? If you proceed with this disposition, you are giving up your rights. Let me explain them to you.

You have a right to a trial/hearing on the charges/violations against you.

You are presumed innocent; it is the state's burden of proving the charges against you by proof beyond a reasonable doubt (or for a violation of probation petition, by a preponderance of the evidence.)

You have the right to be represented by a lawyer at trial.

You have the right to have your lawyer confront and question the people who testify against you, to call people to testify for you, to use the court's power to bring people to court to testify and to present other evidence on your behalf.

You have the right to testify yourself if you want to, but you also have the right to remain silent, and if you choose not to testify, that fact would not be held against you.

Those are your rights. If you admit these charges, you are giving up your rights. There will be no trial. The State will not have to prove anything. The Court will find you delinquent/incorrigible/in violation of probation based only on what you tell me today.

Do you understand all that? And is that what you want to do?"

8. Determine voluntariness:

Has anyone forced you or threatened you in any way to get you to enter into this disposition?

Has anyone promised you anything to get you to enter into this disposition (other than what's set forth in the written terms of any disposition agreement)?

9. For charges involving a victim, determine whether victim's rights have been complied with; whether the victim wishes to address the court and whether the disposition can proceed. [A.R.S. § 8-403](#); [Ariz. R.P. Juv. Ct. Rule 220\(b\)\(3\)](#).

10. Take factual basis from the minor/counsel and determine if it is sufficient.

11. If a proper showing has been met,

- find that disposition is supported by a factual basis;

- find the disposition is voluntary; is made knowingly and intelligently and with an understanding of the possible consequences of the disposition;
 - accept the disposition;
 - find the minor delinquent/incorrigible/violated probation on specified charge(s);
 - dismiss other charge(s) as agreed in the disposition agreement; and
12. Proceed to disposition or schedule disposition hearing. Can proceed directly to disposition on a violation of probation without a disposition report. [Ariz. R.P. Juv. Ct. 224\(e\)\(6\)](#). Can proceed directly to disposition after accepting a disposition to a delinquent or incorrigible act only if the parties waive their right to have a written disposition report and if the victim did not provide a written impact statement as provided by law. [Ariz. R.P. Juv. Ct. 222\(a\)\(3\)](#). If disposition is set for another hearing:
- Set date and time: within 30 days of adjudication (detained); 45 days of adjudication (not detained). [Pima County: 15/30 days.]
 - If the minor admitted a felony, then consider ordering the minor to submit a set of fingerprints to the probation department prior to the disposition. [A.R.S. §8-341\(P\)](#).
 - If the minor admitted to a sex offense, then consider ordering the minor to complete as many of the requirements of [A.R.S. §8-341\(O\)](#) as can be done prior to the disposition.
 - If restitution is an issue, set the next hearing to address restitution and consider setting a deadline for restitution claims to be filed prior to the disposition hearing.
 - Advise minor of importance of appearing at hearing and that a warrant may issue for the minor's arrest if he/she fails to appear at the hearing. Admonish parent regarding consequences of failure to appear, such as contempt of court. [Ariz. R.P. Juv. Ct. Rule 205\(c\)](#).
 - Proceed to Detention/Release Section to address detention or release, if juvenile detained.

TRIAL REVIEW HEARING (Pima County)

CALL THE CASE:

1. Identify the case name, case number, and the nature of the hearing.
2. Identify those present.
3. Read the Victim Notice if the victim is in court for the first time on this case.

IF MINOR APPEARS WITH COUNSEL, IMPOSE FINANCIAL ASSESSMENT IF:

1. Counsel is court-appointed.
2. Assessment was not previously imposed.
3. Assessment is supported by guidelines.
4. Victim is not a family member.

DETERMINE STATUS OF CASE:

1. Proceed with Change of Plea, if there is a plea agreement; OR
2. Set adjudication hearing (45 days from advisory hearing, detained; 21 days, out of custody probation revocation; 60 days from advisory hearing, out of custody delinquency); Ariz. R.P. Juv. Ct. Rules 221 and 224(e) OR
3. Continue trial review on motion for good cause (disposition negotiations, diversion interview, completion of diversion, request for additional disclosure).
4. Obtain waiver of time limits, if applicable.
5. Order minor [and parents] to appear at future hearing(s) and warn of consequences of failure to appear, to include having adjudication in minor's absence and warrant issued for arrest if failure to appear.
6. If Department of Child Safety is the guardian, direct DCS be present at future hearings unless good cause provided not to be present. Copy DCS case manager on distribution list.

ADJUDICATION

Source: [Ariz. R.P. Juv. Ct. 221](#)
[Ariz. R.P. Juv. Ct. 224\(e\)](#)

CALL THE CASE:

1. Identify the case number, case name, and the nature of the hearing.
2. Identify those present.
3. Read the Victim Notice if this is the first time the victim is in court on this case.

DETERMINE IF THE PARTIES ARE READY TO PROCEED:

1. Hear any preliminary motions.
2. Determine if either party invokes rule of exclusion of witnesses. [AZ. R. EV. 615](#):
 - Have counsel identify all witnesses,
 - Have the clerk swear all witnesses,
 - Identify victim[s], investigating officers, or other persons who may remain in the courtroom and
 - Admonish the excluded witnesses.

“The rule excluding witnesses has been invoked. This means that you are to remain outside the courtroom until you are called to testify. It also means that you are not to discuss the case or your testimony with anyone except the attorneys until after you have testified. You are also not to listen to, read, or watch anything revealing what is happening inside the courtroom during trial before you testify. If there is media coverage of this trial, you should also avoid seeing, listening to or watching anything regarding the trial until after the trial has been completed [In the judge’s discretion, the judge may reference specific forms of traditional media, social media or other forms of technology that the witness must refrain from listening to, reading or watching.] ”

HEAR OPENING STATEMENTS (IF ANY)

HEAR TESTIMONY:

1. State’s evidence.

2. Hear and decide any motion for judgment of acquittal pursuant to [Ariz. R.P. Juv. Ct. 221\(e\)](#).
3. Juvenile's evidence, if any.
4. State's rebuttal evidence, if any.
5. Closing arguments.

MAKE FINDINGS:

1. Enter finding with respect to each count that the facts alleged in the petition were proven beyond a reasonable doubt (preponderance of the evidence for violation of probation counts) and adjudicate minor delinquent or incorrigible (or having violated probation)
2. Enter findings with respect to each count the facts alleged in the petition were not proven beyond a reasonable doubt (or preponderance of the evidence for violation of probation counts) and dismiss each such count.
3. Proceed to disposition (if can do so and wish to do so¹) or schedule disposition in the future. If disposition is set for another hearing:
 - a. Set date and time: 30 days (detained); 45 days (not detained). [Pima County: 15/30 days.] [Ariz. R.P. Juv. Ct. 222\(b\)](#)
 - b. If the minor adjudicated delinquent of a felony, then consider ordering the minor to submit a set of fingerprints to the probation department prior to the disposition. [A.R.S. §8-341\(P\)](#).
 - c. If the minor adjudicated delinquent of a sex offense, then consider ordering the minor to complete as many of the requirements of [A.R.S. §8-341\(O\)](#) as can be done prior to the Disposition.
 - d. If restitution is an issue, set the next hearing to address restitution and consider setting a deadline for restitution claims to be filed prior to the disposition hearing.
 - e. Proceed to Detention/Release Section to address detention or release, if juvenile detained.
 - f. Advise minor of importance of appearing at hearing and that a warrant may issue for the minor's arrest if he/she fails to appear at the hearing. Admonish parent regarding consequences of failure to appear, such as contempt of court. [Ariz. R.P. Juv. Ct. Rule 205\(c\)](#) .

¹ Can proceed directly to disposition on a violation of probation without a disposition report. [Ariz. R.P. Juv. Ct. 224\(e\)\(6\)](#). Can proceed directly to disposition after adjudication only if the parties waive their right to have a written disposition report and if the victim did not provide a written impact statement as provided by law. [Ariz. R.P. Juv. Ct. 222\(a\)\(3\)](#).

DISPOSITION

Source: [A.R.S. §8-241](#) *et seq.*, [A.R.S. §8-341](#) *et seq.*; [Ariz. R.P. Juv. Ct. 222](#)

CALL THE CASE:

1. Identify the case number, case name, and the nature of the hearing.
2. Identify those present.
3. Read the Victim Notice if the victim is in court for the first time on this case.
4. If acceptance of disposition was deferred, make appropriate findings.
5. Identify the charges on which the minor was adjudicated delinquent, incorrigible or for violating probation.

RECOMMENDATIONS:

1. Identify materials reviewed (predisposition report, evaluations, letters, etc.).
2. Hear recommendations of:
 - Defense counsel
 - Juvenile
 - Parents
 - County Attorney
 - Probation officer
 - Victim[s]
 - Other interested parties
 - Defense counsel rebuttal

FINDINGS AND ORDERS:

1. If probation is ordered:
 - State length,
 - Identify person to have physical custody,
 - Review conditions with minor and make sure minor understands them,
 - If detained, order release if appropriate,
 - Review conditions imposed on parents
 - Have minor and parents sign conditions.

- Before a minor can be placed on Juvenile Intensive Probation Supervision (JIPS), the Court must find, on the record, one or more of the following:
 - The minor would otherwise have been recommended for commitment to the Arizona Department of Juvenile Corrections or placement in an out-of-home institutional or residential setting; AZ Code of Jud Admin §6-302(H)(5)(a) or (b)
 - The minor is fourteen years of age or older and adjudicated as a repeat felony juvenile offender under [A.R.S. §8-341\(D\)](#). AZ Code of Jud Admin §6-302(H)(5)(d); **or**
 - After evaluating the needs of the minor and the minor's risk to the community, including the nature of the offense, the delinquent history of the minor, the minor's history of referrals and adjustments and the recommendation of the minor's parents, based on the nature of the offense and the delinquent history of the minor, the minor should be placed on JIPS. [A.R.S. §8-352\(B\)](#); Ariz. Code of Jud. Admin § 6-302(H)(5)(c).
 - **NOT** for incorrigible offenses. *In re Sheree M.*, 197 Ariz. 524, 4 P.3d 1067 (App. 2000).
2. If the minor is detained and/or placed in a foster home, group home, shelter, or residential treatment facility:
- Receive evidence,
 - Determine and make written findings pursuant to [42 U.S.C. §672](#) whether it is in the best interest of the minor and the community for the minor to be placed outside the minor's home (continuation in the house would be contrary to the welfare) and
 - Within sixty days from removal, determine and make findings whether reasonable efforts were made to prevent or eliminate the need to remove the minor and to return the minor home. See [Ariz. R.P. Juv. Ct. 217\(c\)](#).
 - NOTE: Before the Court may order the minor placed in a level one residential treatment facility (other than psychiatric acute care services as defined in A.R.S. §8-271) as a condition of probation, the order must meet the requirements of [A.R.S. §8-341.01\(A-B\)](#).
3. Commitment to the Arizona Department of Juvenile Corrections:
- State reasons why minor is being committed, including that consideration has been given to the nature of the offense and risk to the community; less restrictive alternatives and whether further efforts at rehabilitation need to take place in a secure facility for the protection of the community.

- State the delinquent offense(s) for which the minor is being committed and any minimum length of time (30 days) the court is ordering the minor be held in a secure facility,
- Identify any recommended programs, e.g., substance abuse or sexual offender,
- Order minor transported and
- Assess fees.

NOTE: The Arizona Department of Juvenile Corrections Length of Stay Guidelines specified in [A.R.S. § 41-2816\(C\)](#) can be found on adjc.az.gov under [Publications > Policy and Procedure > Policy # 2302.06G](#).

Generally, the effective minimum stay at Arizona Department of Juvenile Corrections is 30 days and shall conclude upon the minor's release, but the stay shall be no later than the minor's eighteenth birthday, unless juvenile court jurisdiction was extended to the juvenile's nineteenth birthday pursuant to [A.R.S. § 8-202\(H\)](#). Unlike sentencing ranges in adult criminal court, these Guidelines have historically **not** set forth suggested commitment times for various offenses.

4. Order restitution pursuant to [A.R.S. §8-344](#):
 - Determine the amount by stipulation based on evidence or set hearing.
 - Determine manner of payment.
 - Determine whether custodial parents are responsible for payment of restitution.
5. In all cases:
 - Order parents to pay probation or Arizona Department of Juvenile Correction fees,
 - Order parents to pay victim fee[s], unless victim is a family member, then the fee is waived.
 - Order minor's right index finger print (thumbprint) for each new felony adjudication and
 - Order Automatic Fingerprint Identification System fingerprints (first time felonies only).
6. Make a finding, on the record, regarding the minor's ability to carry or possess a firearm. (Discretionary and for misdemeanors only). [ARS §8-341\(R\)](#).
7. If applicable, determine whether the juvenile's driving privileges should be suspended ([ARS § 28-3320](#)).

ADMONISH FIRST-TIME FELONY JUVENILE OFFENDER [[A.R.S. § 8-341\(C\)](#)] AND REPEAT FELONY JUVENILE OFFENDER [[A.R.S. § 8-341\(E\)](#)] [BOTH IN WRITING AND VERBALLY AS NOTED IN CHANGE OF DISPOSITION SECTION]:

[Dispositional issues for adjudicated sex offenders are addressed by [A.R.S. § 8-350](#), [§ 8-350.01](#), and [§ 13-3821\(D\)](#)]

Have minor sign, file in court file, and provide a copy to minor of [Notice of Important Rights](#), pursuant to [A.R.S. Sections 8-348\(A\) and 8-349\(G\)](#) (effective August 27, 2019). This form (form AOC JVPA1F) can be located on www.azcourts.gov/selfservicecenter/Juvenile-Law/Juvenile-Law-Forms.

ADVISE MINOR OF APPEAL RIGHTS:

1. Notice of appeal must be written and filed with the Clerk of the Court within 15 days of the date the signed order from the disposition hearing is filed with the Clerk of the Court.
2. Right to counsel; appointed if indigent.
3. Right to transcript.